HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION Nos:26804 & 26805 OF 2007

Dated:14.12.2007

W.P.Nos:26804 and 26805 of 2007 (Same parties)

Between:

M/s. Suvarna Cements Limited,
Mallelacheruvu Village and Mandal,
Nalgonda District rep., by its Director
Mr. J.S. Rao.

..Petitioner

And

1. The Assistant Commissioner (CT) LTU,
   Nalgonda Division, Nalgonda and others.

..Respondents.

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION Nos:26804 & 26805 OF 2007

COMMON ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petitions are filed by the petitioner seeking to declare the action of the 1st respondent in issuing the notices dated 4.12.2007 demanding the balance disputed tax for the assessment years 2003-2004 and 2004-2005 under CST Act, pending appeals before the Sales Tax Appellate Tribunal and contemplating to take coercive steps as illegal and arbitrary and consequently, to restrain the 1st respondent from taking any coercive steps for recovery of the balance disputed tax, pending disposal of the appeals before the Sales Tax Appellate Tribunal.

Since the parties and controversy involved in both the writ petitions, are one and the same, they are being disposed of by a common order.

The main grievance of the petitioner is that aggrieved by the orders passed by the 2nd respondent dismissing the appeals for the assessment years 2003-2004 & 2004-2005, respective appeals have been preferred before the Sales Tax Appellate Tribunal. However, taking advantage of the orders passed by the 2nd respondent, the 1st respondent is insisting for payment of the balance disputed tax. Hence, the petitioner filed stay applications for both the assessment years before the 3rd respondent. But, the said applications were rejected.

Therefore, the present writ petitions have been preferred by the petitioner.

Heard the learned Counsel appearing for the petitioner and the learned Special Standing Counsel for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that the petitioner has already paid more than 50% of the disputed tax and therefore, the rejection of stay applications pending the appeals is arbitrary and illegal and at this juncture, if the relief as to the stay of the proceedings is not entertained and if the recovery of the balance disputed tax in question is effected, the very purpose of filing the appeals before the Sales Tax Appellate Tribunal, which is a statutory remedy that is available to the aggrieved party, would be defeated.

In the facts and circumstances of the case and in view of the pendency of the appeals before the Sales Tax Appellate Tribunal and in view of the submission made by the learned Counsel for the petitioner that more than 50% of the disputed has already been paid for the respective assessment years, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted. Hence, there shall be stay of recovery of balance disputed tax till the disposal of the appeals pending before the Sales Tax Appellate Tribunal.

Subject to the above direction, the above writ petitions are disposed of. No costs.

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Justice T. Meena Kumari

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Date: 14th December, 2007 Justice G. Rohini

Note: Issue C.C. on Monday.

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Nn.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI

&

HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION Nos:26804 & 26805 OF 2007

(Common Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

14/12/2007